

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

**LONE STAR INDUSTRIES, INC.
AI # 1182**

**PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.**

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* **Enforcement Tracking No.**
* **WE-CN-03-0753**
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SETTLEMENT

The following Settlement is hereby agreed to between LONE STAR INDUSTRIES, INC. (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a corporation which operates a cement facility at 14900 Intracoastal Drive in New Orleans, Orleans Parish, Louisiana. (“the Facility”).

II

As a result of self-reporting by Respondent, on September 19, 2003, the Department issued a Consolidated Compliance Order & Notice of Potential Penalty (“CCO/NOPP”), Enforcement Tracking No. WE-CN-03-0753, to Respondent, which was based upon the following findings of fact:

The Respondent owns and/or operates a cement facility located at 14900 Intracoastal Drive in New Orleans, Orleans Parish, Louisiana. Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0003298 was issued with an effective date of July 1, 1998 and which expired on June 30, 2003. Major modifications to LPDES permit LA0003298 occurred on October 1, 1999, and June 1, 2002. An LPDES permit renewal application has not been received as of September 18,

2003. The LPDES permit authorized the Respondent to discharge once-through noncontact cooling water, stormwater runoff, external truck washwater, cooling tower blowdown, and treated sanitary wastewater from its facility into Michoud Canal, thence into the Intracoastal Waterway, both waters of the state.

A file review conducted by the Department on or about September 18, 2003, disclosed that the Respondent failed to submit an application for the renewal of its LPDES permit 180 days prior to the expiration date. The Respondent's failure to submit its permit application in a timely manner constitutes a violation of LPDES permit LA0003298 (Part III, Section A.2 and A.4), La. R. S. 30:2076(A)(3), LAC 33:IX.501.C, LAC 33:IX.501.D, and LAC 33:IX.2311.A.1.

III

On or about October 23, 2003, a file review of the Respondent's cement facility located at 14900 Intracoastal Drive in New Orleans, Orleans Parish, Louisiana, disclosed the following violation:

The Department received the Respondent's annual report showing the equipment operating time for the 2002 calendar year. The report was dated June 25, 2003, and postmarked June 26, 2003. The Respondent failed to submit the report to the Department by February 15, 2003. This is a violation of Specific Condition No. 2 of Air Permit Nos. 2140-00038-03 and 2140-00038-04, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

IV

In response to the CCO/NOPP, Respondent did not request a hearing or otherwise appeal.

V

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

VI

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of THREE THOUSAND FIFTY-ONE AND 46/100 DOLLARS (\$3,051.46) of which ONE HUNDRED FIFTY-SIX AND 46/100 DOLLARS (\$156.46) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement.

VII

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order and Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VIII

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

IX

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to

the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act

X

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Orleans Parish. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-

publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

XI

Payment is to be made within **ten (10) days** from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XII

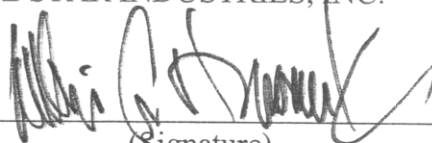
In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XIII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

LONE STAR INDUSTRIES, INC.

BY:


(Signature)

William A. Humenuk

(Printed or Typed)

TITLE: Senior Vice President and General Counsel

THUS DONE AND SIGNED in duplicate original before me this 23rd day of
February, 20 05, at Bethlehem, Pennsylvania

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal
Cindy E. Schneider, Notary Public
Lower Saucon Twp., Northampton County
My Commission Expires Sept. 18, 2006

Member, Pennsylvania Association of Notaries


NOTARY PUBLIC (ID # 1193137)

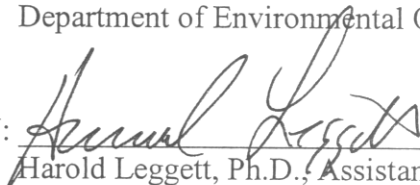
Cindy E. Schneider

(Printed or Typed)


STATE OF LOUISIANA

Mike D. McDaniel, Ph.D., Secretary
Department of Environmental Quality

BY:

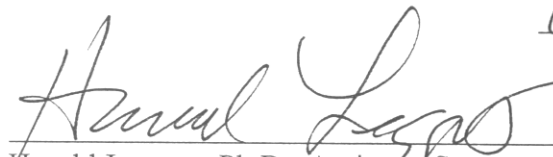

Harold Leggett, Ph.D., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 25th day of
April, 20 05, at Baton Rouge, Louisiana.


NOTARY PUBLIC (ID # 18675)

Christopher A. Ratcliff
(Printed or Typed)

Approved:


Harold Leggett, Ph.D., Assistant Secretary



CHARLES C. FOTI, JR.
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

April 12, 2005

Mr. Herman Robinson, Executive
La. Department of Environmental Quality
Legal Affairs Division
P.O. Box 4302
Baton Rouge, LA 70821-4302

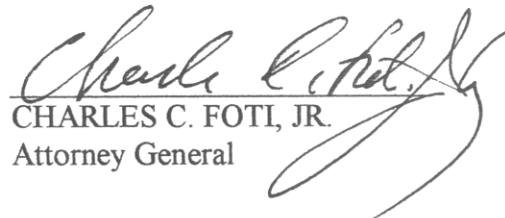
Re: AG Review of DEQ Settlement;
Lone Star Industries, Inc.
WE-CN-03-0753

Dear Mr. Robinson:

Pursuant to the authority granted to me by Art. IV, Sec. 8 of the state constitution and R.S. 30:2050.7(E)(2)(a), I approve the above referenced settlement.

Sincerely,

By:


CHARLES C. FOTI, JR.
Attorney General

CCF/mlc